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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,992	11/12/2003	Jean-Francois Durette	10328-1	2991
23486	7590	08/04/2005		
SHUTTLEWORTH & INGERSOLL, P.L.C. 115 3RD STREET SE, SUITE 500 P.O. BOX 2107 CEDAR RAPIDS, IA 52406				
			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT 3743	PAPER NUMBER

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7/11

Office Action Summary	Application No.		Applicant(s)	
	10/605,992		DURETTE, JEAN-FRANCOIS	
	Examiner		Art Unit	
	Camtu T. Nguyen		3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005 and 27 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 14-35 is/are pending in the application.
- 4a) Of the above claim(s) 2-10, 12 and 14-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendments

This Office Action is in response to applicant's amendment filed on July 8, 2005. Claims 34 and 35 are newly added claims.

This Office Action is in response to applicant's supplemental amendment filed on July 27, 2005. Claims 12 and 14-18 have been amended to depend from claim 34.

Applicant's comments pertaining to the Flory reference are acknowledged however not persuasive. With regards to the Flory's eyelet (19) on the first eyepiece (3) is positioned substantially parallel to eyelet (19) on the second eyepiece (3), Flory's Figure 1 illustrating the protective device as if it were not applied curving along over the user's eyes. Applicant's Figure 20 illustrating the device, especially the shields (10) curved as if it were worn on the user's eyes, thereby, displaying the mounting posts substantially parallel to each other. Likewise, if the Flory's device as illustrating in Figure 1 were to be curved, especially the eyepieces (3) such that it were worn on the user's eyes, then the eyelets (4) would have been yielded parallel to each other. The Flory reference applied previously stand rejected.

The claims, as amended in amendment and supplemental amended, are rejected in the following manner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the specification has not been consecutively numbered. See MPEP § 608.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "substantially parallel" recited in claim 1 and 34 is a relative term which renders the claim indefinite. The term "substantially parallel" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In this situation, when the device is applied on the user, the mountings that are in parallel to each other for one user may not necessarily be parallel to each other to another user as facial features particularly around the eyes area, the distance between the eyes, the height of the nose varies from person to person.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3743

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Flory (U.S. Patent No. 5,390,373). Flory discloses in Figures 1 and 2 an eye goggles (2) comprising eyepieces (3) consisting lenses (4), a nose piece (10) joining the eyepieces (3) together in a spaced apart relationship, the nose piece (10) being inserted through the eyelets (19) and secured therein by posts (23), and the eyelets (19) on each eyepiece (3) for attaching the nose piece (10) are substantially parallel to each other. With regards to lenses (4) being made of material that can block radiation, Flory teaches the lenses (4) are preferably comprised of UVAD tinted polycarbonate plastic for reduction of the sun's harmful ultraviolet rays (column 3 lines 46-50). The Flory lenses are capable of blocking radiation energy.

Claims 1, 34, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Stefanovsky et al (U.S. Patent No. 6,081,934). Stefanovsky et al discloses an extra-ocular laser eye goggles (10) comprising eye shields (15), a nose bridge strap (40), a connector (25) on the eye shield (15) for attaching the nose bridge strap (40) to the eye shield (15). Stefanovsky et al teaches the nose bridge strap (40) is sufficiently pliable to be stretched over and connected to the connectors (25) such that the eye goggles (10) may accommodate different facial features and nose sizes. The trap (40) can be adjusted without altering the position of the eye shields (15). The goggles (10) illustrating in Figure 1, when applied onto a user, the eye shields (15) would be curved along the user's eyes such that the connectors (15) are positioned substantially parallel to each other.

Conclusion

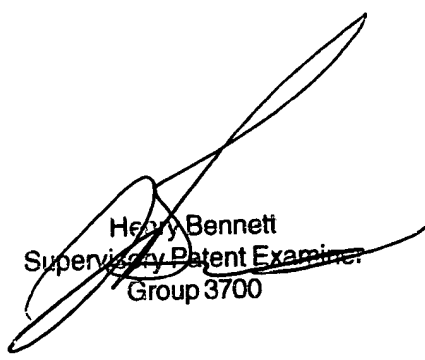
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-499. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen
August 3, 2005



Henry Bennett
Supervisory Patent Examiner
Group 3700